

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

OP.No. 2575 of 1998(F)

PETITIONER:

**K.BALABHADRAN,
BLOOD BANK TECHNICIAN,
(UNDER ORDER OF COMPULSORY RETIREMENT)
MEDICAL COLLEGE, KOTTAYAM – RESIDING AT
PUNNASSERIL VEEDU, FATHIMAPURAM P.O.,
CHANGANACHERRI, KOTTAYAM DISTRICT.**

BY ADV. SRI.A.N.RAJAN BABU

RESPONDENTS:

- 1. THE STATE OF KERALA, REPRESENTED BY THE CHIEF
SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR OF MEDICAL EDUCATION,
THIRUVANANTHAPURAM.**
- 3. THE JOINT DIRECTOR OF MEDICAL EDUCATION (G),
THIRUVANANTHAPURAM.**

BY SR. GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN for R1 to R3

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 05/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF MEMO OF CHARGES DTD. 24/04/1996.
- EXT.P1(A): COPY OF STATEMENT OF ALLEGATION SERVED ALONG WITH THE MEMO OF CHARGE.
- EXT.P2: COPY OF MEMO ISSUED BY THE MEDICAL OFFICER IN-CHARGE REGARDING THE 1ST TWO CHARGES EARLIER.
- EXT.P3: COPY OF EXPLANATION SUBMITTED BY THE PETITIONER DTD. 1/02/1996.
- EXT.P4: COPY OF EXPLANATION SUBMITTED BY THE PETITIONER DTD.28/11/1995.
- EXT.P5: COPY OF EXPLANATION STO EXT.P1 AND P1(A) SUBMITTED BY PETITIONER.
- EXT.P6: COPY OF THE ORDER NO.SS1-9776/96/DME DTD. 25/10/1996 ISSUED BY JOINT DIRECTOR.
- EXT.P7: COPY OF THE LETTER DTD. 20/11/1996.
- EXT.P8: COPY OF SHOW CAUSE NOTICE NO.SS1/9776/96/DME DTD. 24/02/1997 ISSUED TO THE PETITIONER BY THE DIRECTOR OF MEDICAL EDUCATION.
- EXT.P9: COPY OF REPLY TO SHOW CAUSE NOTICE DTD. 7/04/1997 BY THE PETITIONER.
- EXT.P10: COPY OF ADDITIONAL REPLY SUBMITTED BY PETITIONER DTD. 3/05/1997.
- EXT.P11: COPY OF ENQUIRY REPORT DTD. 26/12/1996.
- EXT.P12: COPY OF THE ORDER DTD. 24/06/1997.

/TRUE COPY/

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S.SIRI JAGAN, J.

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O.P.No.2575 of 1998

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Dated this the 5th day of March, 2007

J U D G M E N T

The petitioner was a Blood Bank Technician of Medical College, Kottayam. Disciplinary proceedings were initiated against him pursuant to Ext.P1 charge sheet and Ext.P1(a) statement of allegations. An enquiry is stated to have been conducted by an enquiry committee consisting of a Professor of Nephrology and a Professor of Plastic Surgery, Medical College, Kottayam, who submitted Ext.P11 report. Based on Ext.P11 report, Ext.P12 punishment of compulsory retirement has been imposed on the petitioner. The petitioner challenges Exts.P11 and P12 on the grounds of violation of principles of natural justice in conducting the enquiry and failure to obtain concurrence of the P.S.C. for imposing the punishment as required under law.

2. No counter affidavit has been filed in this case although this original petition was filed in the year 1998. As such, I am constrained to decide this case on the basis of the averments in the original petition.

3. Ext.P11 is the copy of the enquiry report stated to be served on the petitioner. A mere reading of Ext.P11 report itself would make it abundantly clear that the enquiry has been conducted in violation of the principles of natural justice. It does not say as to who were the witnesses who deposed in the enquiry. Apart from certain irrelevant observations regarding consumption of liquor by the petitioner, which has not even been referred to in the memo of charges, there is no specific finding on the charges. The petitioner specifically alleges that no procedure of examination of witnesses with opportunity to the petitioner to cross examine the witnesses have been followed by the enquiry committee. Ext.P11 enquiry report also does not disclose that any such

procedure as applicable disciplinary enquiries have been followed by the enquiry committee. The findings thereon are as vague as possible. The report also refers to irrelevant facts which have no bearing on the charges or the enquiry. On a reading of Ext.P11, I find that, to say the least, it is far from satisfactory as an enquiry report. No person could have been found guilty on the basis of such an enquiry which is evidently conducted without complying with the basic principles of natural justice. In the above circumstances, Exts.P11 and P12 are quashed with consequential reliefs to the petitioner. However, if the respondents so wish, they may conduct a fresh enquiry complying with the principles of natural justice afresh.

Original petition is disposed of as above.

Interlocutory applications stand closed.

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S.SIRI JAGAN, JUDGE

S.SIRI JAGAN, J.

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O.P.No.2575 of 1998

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J U D G M E N T

5th March, 2007